G. R. S. 59] GPB—15,000—22 7 14

GENERAL AND REVENUE SECRETARIAT.

1900-01

~~191~~.

(Municipal)

File No. 105 of 1900.

Serial Nos. 162

Papers Filed.

Month November 1900.

SUBJECT.

- condonation of absence of Dr. Sadasivappa while under criminal nominal Trial

Indexed: J. Narasimha Rao

PREVIOUS REFERENCES.

April 82 of 99 S. E.

LATER REFERENCES

Sentenced to [illegible]

Memo 42

The President of the Nates
in the Kolar District with
his letter etc 5.26 of 10-1-00
submitted the Petition of the
Sadasivappa member of the
Srinivasapur Local Board for
being allowed to ~~retain~~ continue
as member, as his absence
was due to his trial, which
resulted in his discharge by
the Chief Court, and stated
that he (President) would not
recommend his retention on
the Board- In reply he
was asked to submit copies
of the judgment of the original
court convicting the member
and of the Chief Court's order
reversing the judgment- Copies
of orders having accordingly
been received, enquiry was
made as to whether the refusal
of Sadasivappa had been had
and;

sl 6 in L. 40 897

etc 8680 / L 40 97 07 27-1-00 (sl 55)

sl 69 in L 40 897

ed if so with what result
ed as to if the date from
which he had been absent
from the meetings of the
Board (Sl 71 in L.F 40 of 97). cto 13779 of 27.
40.97

The President in his letter
below cto 126 of 27 8.00 states
that the trial of the person
was held on 11th August 1900
by the Sub-Div officer
Chuckballapur, the result
being his discharge and that
he has been absenting
himself from the meetings
of the Board since Jan 1899

Submitted for orders
as to whether he may
be removed for absence
from meetings, in regard to which he
was no free agent Please
see Pro cto 6619 / L-F 125 92 of 16/11/92, (Share copy submitted)
when 2 members removed by the
Cauvery and Board on the ground
of their connection for rioting,
were restored to their offices when
their connection was reversed
in appeal

Sadaswappa from three
to me 3 ~~months~~ meetings
was unavoidable, he could not
be removed from the Board
without ground, nor can
he be removed on the ground
of his having been subjected
to a criminal prosecution
as he has been discharged
in the retrial (vide S.C.

16/11/92

Sd/- [illegible] 16/11/92

Yes.

In SC No 56 the President
said that he could not
recommend Sadaswappa's
retention on the Board
as the retrial ordered
by the Chief Justice was
pending - That retrial
is now reported to have
resulted in a discharge.
That being so Sadaswappa's
absence from meetings
during the progress of
criminal proceedings
against him on

4

Condoned the petition
on the Board and consigned
Clerk's Office. C
14/9/00

Since writing the above
it has struck me that
we should send for
a copy of the order of
discharge to see
whether there is anything
in it regarding Sadasivaiah's
moral turpitude - there
must be that in that
if moral conviction he
was left off for want
of legal evidence -

Get a copy of the
order of discharge at once
Please - C
14/9/00

Mr Mudaliyar should
not have been
kept waiting - I was
under the impression
he was to be
discharged on Saturday
afternoon - I cannot
understand
14 XI 00

Office -
This is all that
need be said or
done now C
14/9/00

The A copy of the
sub Dn Magistrate's order
having been called for as
above directed, the President
submits one with his C to 267
Dy 12/10/00

Submitted for orders
to whether the absence of
Sadagopaiyar may be condoned
his retention on the Board
sanctioned (Please see Secys order
dt 14/9/00)
Dy 16/10/00

A Sekar
Dy 14/9
14/9

Subd to the Secy.
In the copy of Asst. Chenjiachetty's
judgment presumed, there
is nothing damaging to Sadasivaiah's
Character. He may therefore
I think, allowed to continue
on the Board.
taken from Secy's table 22/10/00 Hes

Subd to the 1st Councillor "
Hes 24/10/00

RST Secy
13 XI 00

a621

4073
13-10-1900.-901. 43

From The President
Municipal Board
Kolar District

To The Secretary to the
Government of Mysore
Revenue and Forests
Departments

Dated 12th
Despatched do
Received
October 1900

General No. 267
No. 2271 dt.

Enclosure No. 1 file

Municipal
105 of 1900
1

Submitting a copy
of the Sub Divisional
Magistrate's order,
discharging Shamboga
Sadasivappa.

L 7
15 10 00

Kolar Municipal President's office

Dated 12th October 1900.

From.

The President of the

Municipal Fund Board

Kolar District.

To.

The Secretary to the

Government of Mysore

Revenue and Financial

Departments

Vide Memo:

Sir, 884-89. b.

With reference to your docket

No. X. 4215-17.10.99 dated the 18th September 1900,

I have the honor to submit,

herewith copy of the Demi-official

correspondence regarding purchase

of Land for the Kolar Municipal

Office.

I have the honor to be,

Sir,

Your most obedient

servant

The President

e 651

In the Court of the Sub divisional
Magistrate, Chickaballapur,
Dated the 11th day of August 1900
Present M. Changiah Chetty Esquire
B. A.
Sub Division Magistrate
Criminal Case No: 50 of 1899-190

Complainant-
Government-

Accused
this Sadasiviah, Shanbo
of Anakoppa and
other villages of
Sreenivasapur -

judgment.

The accused above named was committed to this Court on Criminal Case No. 2 of 1898-199, by the then Sub Division Magistrate Mr. K. Doraswa Iyer, for offences under Section 403 or 167 and 204 of the Indian Penal Code. And Sentenced to suffer 2 years rigorous imprisonment- for one years for each Offence or 2 years in all. On appeal, the Chief Court in their order No 25/3 1502 dated the 20th October 1899 Criminal

the conviction and directed
of the case under Section 409 of the
Indian Penal Code.

The District Magistrate of Kolar
having referred the case to ~~this~~ Thrisp
Court for disposal, the case was
taken on the file and the accused
put on his trial.

2 The following witnesses were examined
for prosecution: —

(1) Narayana Iyengar Prosecuting
Inspector
(2) Bhaskarappa -
(3) Balakrishna Rao -

and the following were examined
as Court Witnesses.

(1) Basavachary
(2) Thyagaraja Gopali
(3) Chikkaappardu
(4) Bachi Reddy -

3 After the examination of the first
two prosecution witnesses was finished
the Prosecuting Inspector was told
that the accused could not be tried
at one trial, for two offences of the
same kind committed in different
years viz 1886 and 1892. He replied
that he would go on with the offence

Connection no 1000 no the 1st instance.

Hence, only the following Exhibits for Prosecution out of the Several that are referred to in the depositions, pertain to this case.

Exhibit A/16, — Patta of Ayyakal Eramma's son Gopala - Entry of Rs 0-12-2 as paid on the 17th March 1886,

A/22 — Patta of Chinna Pappannavara Eramma - Entry of Rs 5-12-5 as paid on the 20th March 1886,

A/25 — Patta of Panchalada Basappa Entry of Rs 6-1-10 as paid on 18-3-86,

A/32 — Patta of Ayyakula Eramma Entry of Rs 4-5-11 as paid on 17-3-1886

A/33 — Patta of Lachami — Entry of Rs 2-6-7 as paid on 17-3-86.

B — Khirdi of Avalakuppa village for Parthiva, Entries from the 17th to the 29th March 1886 - appearing on pages from 44 to 52

B/1 — The last entry in Exhibit B showing the Sum of Rs 249-6-11 as having been remitted to the Treasury

C — C. Account of March 1886 of Chinnamma

U — Account of April and May 1886 of Chintamany

R — List showing the names of the Ryots of Avalakoppa who produced their Pattas before the Prosecuting Inspector and who have entrusted them to him.

J — Balance Sheet of Avalakoppa prepared by Balakrishnadeo

V — Khirdi of Avalakuppa for the year Vyaya —

No charge was framed against the accused whose statement is to the following effect.

"I see exhibit B, in it, is an entry to the effect that the amount of Rs 249-6-11 as being the "Irsal Kaneh" to the Taluk Kutcheery. Patel Bachi Reddy collected this sum from the Ryots, I made entries in the Khirdi, till the end of the month, I wrote the Irsal Patti and handed it over to the Patel together with the Khirdi. When he returned it, he told me that

the amount was remitted to the Treasury and when I questioned him as to why the Treasury certificate was not obtained therein he replied that as it was the close of the official year, there was galata ie heavy work And therefore the payment was not certified to in the Khirdi. Three months after this, I had gone to the Taluk Katcherry in order to get my accounts verified and obtain the "Adavu Baki" certificate in the Khirdi. The Taluk authorities made a certificate in the Khirdi for the balance after deducting the amount of collection shown in the Khirdi from the demand against the village. I have granted receipts in the Rayoto Pattas under my signature for the amount shown in the Khirdi as collected during the period between the 17th and 29th 1886."

5. The following exhibits were filed for the defence.

Exhibit I C. account of January 1886 of Chentalancheruvu Taluk - Entry No. 1 [illegible] dt. 21-1-86

II Cr Account of Febru
of Chintamany Taluk — Entry
No. 3 under voucher No. 17 dt 4-2-
— III Cr. account of February 1886
of Chintamany Taluk — Entry
No. 2 under voucher No. 10 dated
17-2-86.

The case for prosecution is as follows.-
The accused is the Shanbhogee of
Avalakoppa and several other villages
in Sreenivasapura Taluk. He is said
to have misappropriated the amount
of Rupees 249-6-11 collected from the
1st to 29th March 1886 from the
ryots of Avala Koppa village and credi
in the Kistbook Exhibit B. of that
year but not remitted to the
Treasury. In this Kistbook are entered
the payment made by each ryot
from the 1st to 29th March 1886
and below the total, there is an
abstract showing the different
heads to which the receipts
are to be credited in the Treasury
and below this is written that the
amount has been remitted to the

vasury and this remark bears the accused's signature and is dated 31-3-86. But on examining the G. accounts of March 1886 (Ext 6) and also of April and May 1886 (Ext D) this remittance cannot be traced. Now the point for consideration and decision is whether the accused was entrusted with any property or any dealing property as required by Section 409 of the Indian Penal Code.

The accused's explanation is to the effect that the Patel Bacharadoi collected this sum of Rs 249-6-11 and that he entered in the Kirdi the amount paid by each ryot to the Patel's hand and at the end of the month, he wrote the "Asal Patte" and gave it and the Kirdi to the Patel Bucharadoy and the latter returned the Kirdi to him saying that he has paid the amount into the Treasury and when he was questioned why the

Treasury Certificate was not
in the Kirdi, he stated that
was the close of the official year
There was galata ~~in~~, the transaction
were heavy in the Treasury and
therefore the payment was not
certified in the ~~Treasury~~ Kirdi.

I examined three persons whose
payments of assessment are
included in the sum of ~~Rs~~ 249-6-11
under enquiry. All of them depose
that the Patel and Shanbhogue
were to sit in the Chavadi and
Kulkarnee with the Kulavadees to the
spot and they used to pay the
amount to the Patel and hand
over their receipts or Pattas to the
Shanbhogue who would make the
necessary entry and return the
same to them. One of these witnesses
further says that if he had no
money with him at the time when the
patel and Shanbhogue met at the
Chavadi that he was in the habit
of sending the amount due by him

and his Patta to the Patel who would send back the book duly receipted by the Shanbhogue. The Patel Bacharaddy corroborates them. He admits that he was the custodian of all the monies collected on account of Kandayam and that he and the accused used to go together to the Taluk Kutchery at the end of each month and pay the sums collected that month into the Treasury punctually and that he cannot after the lapse of 14 years give any particulars about the payment of Rs 2249-6-11 into the Treasury.

Under these circumstances I do not see how the offence of criminal breach of trust could be foisted upon the accused when there is clear evidence to presume that the money was not received by him.

From the evidence of prosecution witnesses it is further clear that the Treasury certificates are not invariably granted on the Kurdees as

as soon as payments
the Treasury. Many payments entered
in the Day-books as remitted into the
Treasury bear no Treasury certificates
though the amounts on verification
are found in the G. accounts.

As the most essential ingredient
to constitute the offence of criminal
breach of trust - is wanting from
the evidence placed before me,
I direct the discharge of the accused
under Section 253 of the Criminal
Procedure Code.

11-8-1900. (Signed) M. Changiah Chetty
Sub Divisional Magistrate.

I may here point out that the
misappropriation of this amount and
several other sums are solely due
to the culpable negligence of the
Talik officials. 3rd witness Bala
Krishnaiah was the Nagade
Gumasta of Chintamani Talik
to which Talik all the collections
of the Sub Talik of Sreenivasapur
were remitted, which circumstance
ought to have put the accused

em 2/3 of the Representativ
Assembly, the officials placed
implicit confidence in his honest
and were not checking his accoun
even at the time of the enquiry January
11/8/1900 (Signed) Sri Changiah Chetti
Sub division Magistrate
Chikballapur

unused

Copy

Sub division Magistrate.

14

Read -

Correspondence ending with letter No. 267 dated the 12th Octr. 1900 from the President of the Mcpl. in the Kolar Distt. re the absence of Mr. Shamboog Sadasivappa from more than 3 meetings of the Sreenivaspur Mcpl. Board

Order.

Govt. are pleased to condone the absence of Mr. Sadasivappa, and direct that he be allowed to continue as a member of the Sreenivaspur Mcpl. Board

Sd.

For Secy.

Forwarded for 105 of 1900 2

R/A 899

6972 19/11/00

[This should go into file of connected subject. Absence of members from more than 3 consecutive meetings]

To, President of Municipality Kolar Distt.